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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,491	10/16/2001	Lawrence J. Gelin	7130-2	6040

7590

07/03/2003

JOHNS MANVILLE INTERNATIONAL, INC.
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EXAMINER

SAN MARTIN, EDGARDO

ART UNIT PAPER NUMBER

2837

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,491

Applicant(s)

GELIN ET AL.

Examiner

Edgardo San Martin

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 5 and 6 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 3 and 4, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "A building component assembly" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onishi et al. (JP 409119177A).

With respect to Claim 1, Onishi et al. teach a sound deadening laminate, comprising a structural skin (Fig.1, Item 1) having a first face, and a layer of sound deadening material (Fig.1, Item 2), wherein the material has an equivalent Young's Modulus included between 50 and 600 psi and is attached to the first face of the structural skin to form a laminate structure (Abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the Onishi et al. sound deadening laminate, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

With respect to Claims 3 and 5, Onishi et al. teach the sound deadening board having a weight density less than or equal to about 14 pounds per cubic foot (Abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onishi et al. (JP 409111909A) in view of Onishi et al. (JP 409119177A).

With respect to Claim 2, Onishi et al. '909 teach a building component assembly, comprising at least one assembly framing member (Fig.1) and at least one combination sound deadening board that is single laminate structure comprising a structural skin layer (Fig.1, Item 1) attached to a sound deadening material (Fig.1, Item 2), and the at least one combination sound deadening board is attached to the assembly framing member such that the sound deadening material faces the assembly framing member (Fig.1, Abstract). However, Onishi et al. '909 fail to disclose the sound deadening material having an equivalent Young's Modulus between 50 and 600 psi.

On the other hand, Onishi et al. '177 teach a structural skin (Fig.1, Item 1) having a first face, and a layer of sound deadening material (Fig.1, Item 2), wherein the material has an equivalent Young's Modulus between 50 and 600 psi and is attached to the first face of the structural skin to form a laminate structure (Abstract).

It would have been obvious to a person with ordinary skill in the art to employ the Onishi et al. '177 sound deadening material as the Onishi et al. '909 layer of sound deadening material because the sound deadening material having an equivalent Young's Modulus between 50 and 600 psi would provide a high sound absorbing rate in a low frequency area even with a thin thickness of the material.

With respect to Claims 4 and 6, Onishi et al. '177 teach the sound deadening board having a weight density between about 9 and about 14 pounds per cubic foot (Abstract).

Response to Arguments

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The Examiner considers that the patents to Onishi et al. teach the limitations described by the claimed subject matter, as discussed above. The Examiner considers that the limitations described by the Applicant are optimum ranges of limitations already disclosed by the references of the prior art of record, and that any person with ordinary skill in the art would be suggested or motivated to work under the disclosed workable range.


Contact Information

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (703) 308-1050. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (703) 308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

Edgardo San Martín
Patent Examiner
Art Unit 2837
Class 181
July 1, 2003


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